

Re: Lively Holdings: Stop Work on Phase Two / End our Special Use Application

From: **Tim** | tim@allpermits.com

Friday, Sep 17, 6:52 PM

To: **Jim Lively** | jim@thelivelyfarm.com, **S Otto** | sotto2@gmail.com

Cc: **Emily Lively** | emily@backyardburdickville.com, **robert@backyardburdickville.com**, **kelly Lively** | kelly@thelivelyfarm.com, **PC Secretary** | kassontwppcsec@gmail.com, **Gerry Roush** | groush@centurytel.net, **Jim Anderson** | jim@andersonbuilders.info, **Stella Otto** | sotto2@gmail.com, **Tad Carter** | cartertad@gmail.com, **Sandy Dunkin** | sandunk521@gmail.com, **Roger Noonan** | bethnoonan571@gmail.com, **Dana Boomer** | kassontwpcclerk@gmail.com, **Greg Julian** | gregoryrjulian@gmail.com, **Julia Carter** | kassontownshiptreasurer@gmail.com

Jim,

Sorry for the delay in getting back to you but there was a lot of detail to absorb in your email below. I will respond with my comments in the order that you followed below.

1. I understand your position and appreciate the update. As a consequence, the Kasson Township Planning Commission (PC) will terminate any further review or consideration related to the proposed Phase 2 of your special land use permit (SUP) related to the Theater and Event Center. At the current time, the approvals are therefore confined to the uses that were approved under the Phase 1 of the SUP. Please note further, however, that the Phase 1 uses are subject to the predicate conditions approved by the PC and/or site plan approvals before the Phase 1 uses can commence. I am yet in the process of preparing the final SUP document that identifies the Phase 1 uses and the appropriate conditions.
1. Again, I understand the decision to terminate the request for the PC review of the proposed Phase 2 uses (Theater and Event Center) at this time. Your summary of the Phase 1 approvals is generally accurate subject to certain conditions and limitations approved by the PC, as discussed above.
1. I just wish to remind you that the commercial kitchen has been proposed as part of Phase 2, so it has not yet been approved under Phase 1. Please note that while the commercial kitchen can be considered a permitted use within the Commercial (CD) zoning district, it nonetheless remains subject to the site plan process under CD Section 4.9.4 and Chapter 8 of the Zoning Ordinance (ZO). Until that process has occurred, the commercial kitchen cannot be

operated/used in any manner whatsoever.

Three large outdoor music annual events are currently allowed on the property in conformance with prior approvals by the PC. There is no approval for other outdoor gatherings or events on the property - as such other proposed uses have been categorized under a proposed Phase 2 of the SUP. In addition, it remains undetermined whether such *outdoor* gatherings would constitute “public and semi-public uses” as discussed within ZO Section 4.9.1 A. Instead, in my view at this time, such outdoor gatherings should be considered by the PC in the context of proposed SUP uses under ZO Section 7.15 and would be subject to whatever conditions/restrictions that the PC may place on them. One of the chief concerns would be noise and sound issues which require the site visit and review by the Township’s sound engineer, whose visit to the Township has been cancelled because of the Phase 2 withdrawal for the other uses. Such gatherings would also be subject to the site plan process referenced above. In summary, no such outdoor gatherings are permitted on the property (other than the three existing annual large outdoor music events) unless and until they are permitted under the SUP and site plan approval process which has not yet occurred.

1. With respect to the escrow deposit, as I recall, of the total deposit of \$5,500, \$2,000 of that amount was designated for attorney expense, and \$3,500 was set aside for the sound engineer expenses. I will contact the Township attorney and the sound engineer to determine what amount of time (and correlative fees) have been ascribed to the account to date. It is my understanding that the attorney has already expended a considerable amount of time as part of the Phase 1 SUP review and approval process.

Finally, if you have any questions, please don’t hesitate to contact me.

Respectfully,

Tim

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